

2-7-05

\$Fee



CERTIFICATE OF EXPRESS MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. § 1.10 on the date indicated below, with sufficient postage, and is addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Cygnus Docket C014.02
Serial No. 10/653,023
Third Party Submission
PATENT

Gary R. Fabian
Printed Name

EL439620085US

Express Mail" Mailing Label No.

Gary R. Fabian
Signature

3 Feb 2005
Date of Deposit

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Racchini, J., et al.	Examiner: Robert Nasser
Patent Publication No: US 2004/0249253 A1	Group Art Unit: 3736
Application Published: 9 December 2004	
U.S. Patent Application No: 10/653,023	
Filing Date: 28 August 2003	
Filing Date of Third Party Submission: Concurrently herewith	
Identification of Third Party Requestor: John C Hodgman, Cygnus, Inc.	
Title: Devices, Systems and Methods for Extracting Bodily Fluid and Monitoring an Analyte Therein	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**Transmittal Letter and Request for Third-Party Submission in Published Application
Under 37 C.F.R. §1.99**

Sir:

1. This is a request for a Third Party Submission in Published Application Under 37 C.F.R. §1.99 for above-identified Pub. No. US 2004/0249253 A1, U.S. Patent Application Serial No. 10/653,023. The application was published on 9 December 2004. Accordingly, this paper is being filed within two months of the publication date as required by 37 C.F.R. §1.99 (i.e., before 9 February 2005).

02/09/2005 MAHME1 00000011 034058 10653023

01 FC:1806

180.00 DA

2. According to 37 C.F.R. §1.99(a):

A submission by a member of the public of patents or publications relevant to a pending published application may be entered in the application file if the submission complies with the requirements of this section and the application is still pending when the submission and application file are brought before the examiner.

The above-identified requestor submits that the references cited in the accompanying Form PTO-1449 (Modified) are relevant to the pending, published application serial number 10/653,023. The requestor asks that cited references be considered by the Examiner during prosecution of this application.

3. Enclosed are the following documents for filing in this Third Party Request:

- ☒ A list of the patents or publications submitted for consideration by the Office, including the date of publication of each patent or publication (see, accompanying modified form 1449);
- ☒ A copy of each listed patent (37 U.S. Patents) and each publication (20 publications) in written form;
- ☒ All patents and publications are in English;
- ☒ The submission was served upon the applicant in accordance with § 1.248 (see certification below); and
- ☒ A self-addressed, stamped postcard accompanies this request so that the Third Party Requestor may receive an acknowledgment by the U.S. Patent and Trademark Office that the submission has been received.

4. Payment of Fees

- ☒ The Commissioner is hereby authorized to charge the fee under 37 C.F.R. 1.17(p) to Deposit Account No. 03-4058 in the amount of \$180.00 for the filing fee.

5. Certification of Service: It is certified by the undersigned that a copy of this request, which is being filed by a Third Party Requestor, has been served in its entirety on the patent owner as provided in 37 CFR 1.33(c) on even-date of the mailing of this paper; service was via U.S. Postal Service Express Mail, Express Mail Label No. EL439620111US. The name and address of the party served are:

Philip S. Johnson
Reg. No. 27,200 (Correspondence Address)
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003
(732) 524-2368

6. A courtesy copy of the present Transmittal Letter and the accompanying modified form 1449 has been sent to the following patent practitioners listed in the Declaration for the above-referenced patent application (Mayumi Maeda (Reg. No. 40,075), Bernard E. Shay (Reg. No. 32,061), Paul Coletti (Reg. No. 32,019) and Mark Warfield (Reg. No. 33,463)) at the following address via U.S. Postal Service Express Mail, Express Mail Label No. EL439620125US.:

Johnson and Johnson
LifeScan, Inc.
1000 Gibraltar Dr
Milpitas CA US 95035
(408-956-4066)

7. Please direct all further communications in this application to:

Barbara G. McClung, Esq.
CYGNUS, INC.
Legal Department
400 Penobscot Drive
Redwood City, CA 94063
Telephone: 650-599-2527
Facsimile: 650-599-3913.

Date 3 Feb 2005

By: Gary R. Fabian
Gary R. Fabian, Ph.D.
Agent for Third Party Requestor
Registration No. 33,875